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Attorney's Docket: 2002DE141
Serial No.: 10/532,565
Response to Non-final Office Action Mailed 03/21/2007

REMARKS

The Office Action mailed March 21, 2007 has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. Reconsideration of the present Application in view of the following remarks is respectfully requested.

Claims 1-12 and 16-20 were rejected under 35 U.S.C. §102(b) as being anticipated by Dietz et al. (US 6,337,364) ('364 Patent). The rejection of claim 1 under 35 U.S.C. §102(b) as being anticipated by Dietz et al. (US 6,337,364) should be withdrawn for the reason that the '364 Patent does not disclose all of the elements of Applicant's invention. The '364 Patent discloses and claims a method for the fine division of pigments which comprises dissolving one or more coarsely crystalline crude pigments in a solvent and precipitating them with a liquid precipitation medium by spraying them with a liquid precipitation medium by spraying the pigment solution and the precipitation medium through nozzles "to a point of conjoint collision in a reactor chamber (See the '364 Patent at column 1, lines 50-56) The '364 Patent defines the "point of conjoint collision" as the collision point at which the jets impinge on one another(See column 1, line 56 and column lines 8-15 and by way of illustration at lines 49-52). Further, the '364 Patent requires the presence of a carrier gas to be passed through the reactor chamber in the vicinity of the collision point to maintain the gas atmosphere in the reactor chamber "especially at the point of collision of the jets" and to carry or remove the pigment suspension from the reactor and provide effective cooling of the reactor and to prevent wear on the reactor internal surfaces (See column 1, lines 59-66 and Column 2, lines 11-15). There is no swirl chamber disclosed in the '364 Patent., and it is not disclosed that any swirl is or would be created at the point of conjoint collision if the suspension is immediately removed from the reactor. Applicant's invention differs from the methods disclosed in the '364 Patent in the following ways:

1. there is no point of conjoint collision
2. there is no carrier gas
3. there is a swirl chamber

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According to Applicant's invention, the pigment liquids or suspensions are introduced into a swirl chamber by two or more nozzles which are not "coaxially aligned" to induce turbulent mixing of the liquid phase, and the mixed liquid phase is continuously discharged from the swirl chamber through an outlet aperture. Applicant's claim 1 specifically recites that the nozzles are "not coaxially aligned" which anyone skilled in the art would recognize that when the nozzles are not mounted on or do not have a common axis (coaxially aligned), this would result in the absence of a "point of conjoint collision", and furthermore, claim 1 recites that the instant method is accomplished "without the use of a carrier gas stream". It is fundamental that all of the elements of a claim must be found united in the same way to perform the identical function for a reference to establish anticipation. Anticipation is a technical defense which must meet strict standards.. Unless all of the same elements are found in exactly the same situation and united in the same way to perform the identical function in a single prior art reference, there is no anticipation. Therefore, the rejection of claim 1 under 35 U.S.C. §102(b) as being anticipated by Dietz et al. (US 6,337,364) should be withdrawn for the reason that the '364 Patent does not disclose all of the elements of Applicant's invention.

The rejection of claims 2-12 under 35 U.S.C. §102(b) as being anticipated by Dietz et al. (US 6,337,364) should be withdrawn for the reasons given in support of claim 1 from which they depend.

The rejection of claims 16-20 under 35 U.S.C. §102(b) as being anticipated by Dietz et al. (US 6,337,364) should be withdrawn for the reason that the apparatus of the '364 patent as discussed hereinabove with reference to claim 1 and for the reason that apparatus of the '364 Patent differs from the apparatus of the instant invention as follows:

1. the apparatus of the instant invention has a swirl space for turbulent mixing, whereas the '364 Patent requires a coaxial nozzle alignment to create a point of conjoint collision to provide the mixing,
2. the apparatus of the '364 Patent requires a means for introducing and withdrawing a carrier gas,

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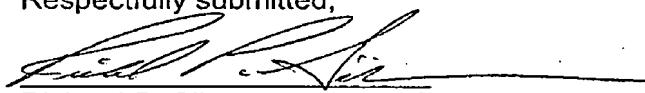
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3. the apparatus of the '364 Patent does not have a swirl chamber and removes any liquid suspension immediately after the point of conjoint collision.

Claims 13-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,537,364 to Dietz et al. (hereinafter '364 Patent), as applied to claims 1 and 12. The rejection of claims 13-15 under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,537,364 to Dietz et al., as applied to claims 1 and 12 should be withdrawn for the reasons given in support of claims 1, 12 and claim 16 hereinabove and for the reason that the '364 patent teaches away from Applicant's invention by requiring that there be a point of conjoint collision of the pigment containing jets. Conjoint collision cannot and does not occur in Applicant's invention, because Applicant requires that the jets not be coaxially aligned in order to provide turbulent mixing in a swirl chamber. The variations in the angle at which the jets strike one another does not change the requirement that the jets in the '364 Patent still must have a point of conjoint collision. Furthermore, anyone skilled in the art would recognize that to modify the method or apparatus of the '364 Patent by realigning the nozzles so that the nozzles were not coaxially aligned would eliminate this required point of conjoint collision (See column 1, line 56 and claim 1).

It is respectfully submitted that, in view of the above remarks, the objections to the specification and the claims, the rejections under 35 U.S.C. §102 should be withdrawn and that this application is in a condition for an allowance of all pending claims. Accordingly, favorable reconsideration and an allowance of all pending claims are courteously solicited.

Respectfully submitted,



Richard P. Silverman, Agent for Applicant,
Registration No. 36,277

(CUSTOMER NUMBER 25,255)
CLARIANT CORPORATION
INDUSTRIAL PROPERTY DEPARTMENT
4000 Monroe Road
Charlotte, NC 28205
Phone (704) 331-7156
Fax (704) 331-7707